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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 10.12.2007.

Rajinder Singh .... Petitioner

vs

State of Punjab .... Respondent.

Judgment

Before : Hon'ble Mr. Justice R.S.Madan.

Present: Mr.Nandan Jindal,Advocate, for the petitioner.
Mr.D.K.Mittal, Deputy Advocate General, Punjab.

R.S.Madan, J.

Challenge in this revision petition is to the order dated 6.7.1007 passed by the learned Additional Sessions Judge (Adhoc) Fast Tract Court, Sangrur, in Criminal Appeal no.78 dated 25.10.2006, whereby the appeal of the petitioner was dismissed and the judgment/order of conviction and sentence of the learned trial court dated 28.9.2006 was upheld vide which he was convicted/ sentenced under Sections 279/337 IPC to undergo RI for six months each and to pay a fine of Rs.200/- each. In default of payment of fine, he was to further undergo RI for one month each. Both the sentences were ordered to run concurrently.

In brief the facts of the case are that on receipt of a wireless message from Incharge, Police Post, Kupkalan, regarding admission of Amarjit Kaur in injured condition in the Civil Hospital, Malerkotla, ASI Anup Singh along with other police officials reached there, where he came

to know that Amarjit Kaur and her husband were referred to Rajindra Hospital, Patiala, due to multiple injuries. On 12.2.2001, he along with other police officials went to Rajindra Hospital. After moving application before the doctor as to whether the injured are fit to make statement or not, recorded the statement of Swaran Singh. Swaran Singh in his statement stated that on 11.2.2001 at about 5.30 p.m. he alongwith his wife Amarjit Kaur was coming on his scooter bearing No.PB-28A 9594 from Village Bathan to Malerkotla via Kup Kalan and near the shop of Chander Bhan, a bus bearing No.PB-10K/9955 being driven rashly and negligently struck against his scooter by coming on wrong side due to the impact he and his wife fell down on the road. Due to the accident, he received injuries on his head on left side, shoulders, both the knees, ankle and also in the chest. Similarly his wife also suffered injuries on her face, head and knees. Both of them became unconscious and were admitted in Civil Hospital, Malerkotla. They were referred to the Rajindra Hospital due to the multiple injuries. According to him, the accident was occurred due to the rash and negligent driving of the bus driver-petitioner.

After recording the statement, ASI Anup Singh made his endorsement on the statement and sent the same to the Police Station, Ahmadgarh, which forms the basis of registration of the FIR against the accused. After recording the statement, he went to the spot and prepared rough site plan. He also recorded the statements of witnesses under Section 161 Cr.P.C. and arrested the accused. After completion of investigation, the challan was presented in the court.

Copy of report under Section 173 Cr.P.C. and other documents relied upon by the prosecution were supplied to the accused-petitioner.

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Finding a prima facie case against the petitioner, he was charge sheeted to which he pleaded not guilty and claimed trial.

The prosecution examined thirteen witnesses, namely, PW1 Sarwan Singh, PW2 Amarjit Kaur, PW3 Constable Ashok Kumar, PW4 Dr. Charanjit Singh, PW5 ASI Anup Singh, PW6 Kharaiti Lal Sharma, PW7 Karamjit Singh, PW8 Dr. Jaswinder Singh, PW9 Nachhattar Singh, PW10 SPO Sucha Singh, PW11 Constable Kuldeep Singh, PW12 Dr. Sukhbir Singh Chauhan, PW13 Shimla Devi, in support of the case.

After closing the prosecution evidence, statement of the accused- petitioner under Section 313 Cr.P.C. was recorded, in which the entire prosecution evidence was put to him to which he replied false implication and innocence. The petitioner examined DW1 Gian Singh in defence.

After going through the evidence brought on the record and hearing the arguments, the learned trial court did not find favour with the defence of the petitioner and thus, convicted/ sentenced him for the charges framed against him under Sections 279/ 337 IPC vide judgment dated 28.9.2006.

Feeling aggrieved against the said order of conviction and sentence, the petitioner filed appeal before the learned Additional Sessions Judge (Adhoc), Fast Track Court, Sangrur. The said appeal of the petitioner was also dismissed. Thereafter, the accused- petitioner presented this revision before this court after suffering two unsuccessful attempts.

I have heard the learned counsel for the petitioner and learned Deputy Advocate General, Punjab and have perused the impugned judgments passed by the courts below.

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At the outset, learned counsel for the petitioner stated that he does not challenge the order of conviction recorded against the petitioner. He, however, submitted that the present occurrence took place on 11.2.2001 and a period of more than 6½ years have elapsed. The petitioner was facing criminal trial before the trial court since 9.10.2001 and thereafter, before the appellate court and this court. He has been sentenced to undergo RI for six months and to pay a fine of Rs.200/- by the courts below. Out of this sentence, he has already undergone three months of imprisonment. He has also compensated the injured Swaran Singh and Amarjit Kaur by making payment of Rs.10,000/- as per order dated 1.10.2007 passed by this court. Learned counsel, thus, prayed that order of sentence of six months may be converted into the sentence already undergone by the petitioner.

Taking into consideration the facts and circumstances of the case, the order of conviction passed by the courts below is confirmed and the sentence imposed by the trial court is modified to the period already undergone by the petitioner. It is ordered accordingly.

This revision is dismissed with the aforesaid modification.

10.12.2007. **(R.S.Madan)**
vs. **Judge.**